

**REMARKS**

The independent claims are hereby amended to recite that the sleeve defines the outer surface of the post according to the present invention.

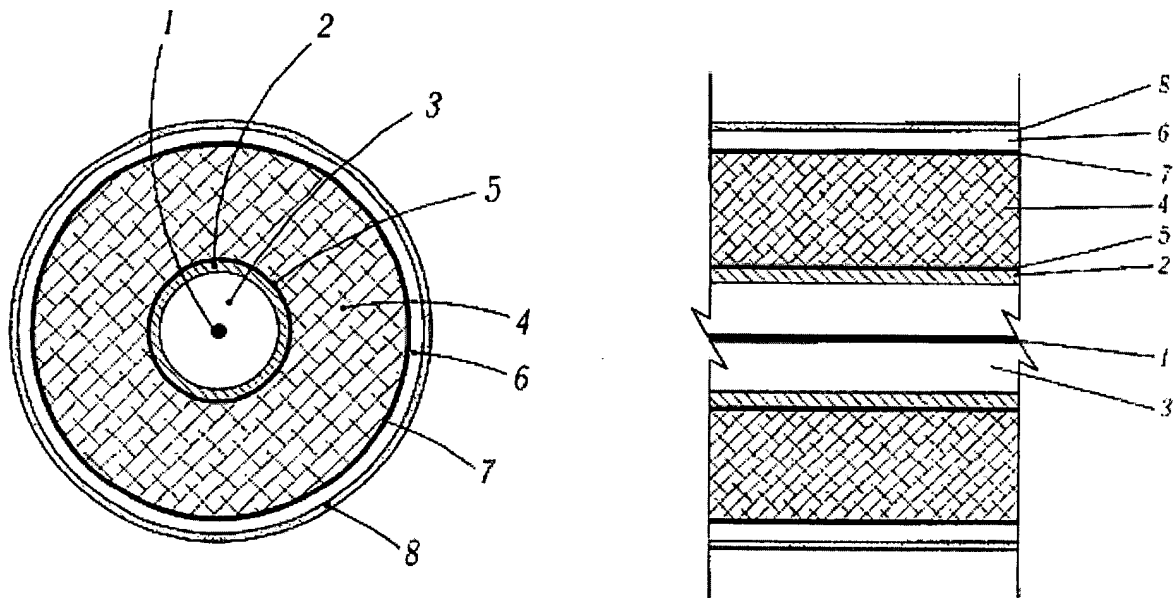
In addition to the other shortcomings of the *Hubbell* reference, notably that it does not disclose or suggest that its components are continuous along the length<sup>1</sup> or that the core (there is no core precisely corresponding to Applicant's core as will be discussed further below) is formed partially of recycled rubber.

*Hubbell* discloses a multiple-concentric-layer foundation piling, the central component of which seems to be a tensioning tendon (1) for post-tensioning the structure after

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<sup>1</sup> Any allegation that *Hubbell* does disclose a continuous structure must be based on inherency because *Hubbell* does not anywhere discuss, disclose, or suggest a continuous structure or a manufacturing method that would yield a continuous structure. Indeed, by teaching a preference for portals, *Hubbell* suggests exactly the contrary, the Examiner's wild speculation about various combinations in which *Hubbell*'s structure might not include the disclosed portals notwithstanding.

assembly:



The remainder of the structure is described as follows:

The inventive foundation pile has one or more ***tensioning tendons***. Only one tendon which is identified as a whole with reference numeral 1 is shown in the drawings. However more than one can be provided in the inventive pile. The tendon or tendons are post-tensioned after the pile is produced, in a manner which is known per se.

The foundation pile of the invention further has a structure which forms a hollow conduit. ***The structure shown in the drawings as an exemplary embodiment is formed as a tubular wall which can be composed, for example plastic, and identified with reference numeral 2.*** The tubular wall has such an inner diameter that an inner hollow space remains between the inner surface of the tubular wall of the conduit and the tendon or tendons, as identified with reference numeral 3.

***The hollow conduit is surrounded by a structural tubular element 4. The structural tubular element 4 can be composed of various materials, which however are non-metallic.*** Such materials can be for example concrete, plastic, rubber, structural foam, etc. ***A friction coating can be applied on the tubular wall of the hollow conduit to provide an improved connection between the wall of the hollow conduit and the structural tubular element. The friction coating can be composed for example of sand distributed in a binder, for example a resin, such as an epoxy resin as identified with reference numeral 5. However the friction coating is not absolutely necessary.***

A next component of the inventive foundation pile is a composite material which is applied as an outer layer around the structural tubular element. ***The layer of composite material is identified with reference numeral 6. The composite material layer 6 can be composed of fiberglass or carbon fibers and/or similar materials. It can be formed as a single shell or can be composed of a plurality of thin layers.*** It can also include metal components intended to oxidize at a placement of the pile in a medium. ***The composite material can be formed of individual strips of different material contents.*** The structural tubular element can be connected with the layer of composite material by an intermediate connecting layer. ***The intermediate connecting layer which is identified with reference numeral 7 can be composed of resin, for example epoxy resin and the like.***

***The outermost component of the inventive foundation pile is a friction coating which is identified with reference numeral 8.*** The friction coating can be formed as a layer which contains a plurality of friction-imparting particles in a binder. The binder can be a resin, for example again an epoxy resin, and the particles are selected to correspond to a medium in which the pile will be driven. For example for fine aggregate soils such as sand soils, the friction component of the filler of the friction coating can be sand. For high organic soils such as bog which are weak soils, the filler in the friction coating can be crushed rocks.

*Hubbell*, Col. 5, l. 57 to Col. 6, l. 42.

Thus, according to Hubbell, the structure defining the exterior surface of the piling is a friction coating 8. Inward of the friction coating is an intermediate connecting layer 7. Inward of the intermediate connecting layer there is a composite material 6 that can be formed of individual strips. Inward of composite material is a friction coating 5, which is sand in epoxy. Inward of that is a tubular structural member 4, which is the only disclosed element that is formed or suggested to be formed, of rubber. Inward of the tubular structural member is a structure forming a hollow conduit 2.

As noted above, the claimed invention includes a thermoplastic sleeve which defines the exterior surface. Interior of the sleeve is a core, which is formed at least partially of recycled rubber. The sleeve and core are continuous in material and mechanical properties along the length of the resulting post. This is preferably achieved by coextrusion, but at least theoretically could be achieved using other processes.

The only analogous structure to the recycled rubber core, indeed the only elastomeric component disclosed by Hubbell, is the structural tubular element 4. That element is “covered” by at least three other layers, including the friction coating. This is in contrast to the present invention, in which there is a single sleeve covering the rubber core.

Conversely, going from the exterior surface radially inward in Hubbell, there is a friction coating, a connecting layer, followed by a composite layer, which, like Kubicky, is not continuous inasmuch as it is disclosed to be “formed of individual strips of different material contents,” followed by an optional friction coating, and finally the structural tubular element disclosed to be formed of rubber, among several other materials. Indeed, although several materials are listed,

In any event, substituting recycled rubber for the rubber structure disclosed by Hubbell would yield a structure having several more layers atop the rubber as opposed to the single claimed sleeve. There simply is no motivation to substitute recycled rubber for the disclosed rubber “layer” of Hubbell, much less any of the other layers.

Nor do the other cited references, taken alone or in combination, meet the claim limitations.

Applicant has now made an earnest attempt to place this application in condition for allowance, or in better condition for appeal. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of all pending claims so that the application may be passed to issue.

#### **Request for Telephonic Interview**

Applicant’s attorney hereby requests a telephonic interview with the Examiner (and apparently her supervisor) prior to any action on the merits on the claims presented

here. Applicant's representative is willing to make himself available at any reasonable time convenient to Examiner and can be reached at 214-347-4708. Voice messages are returned.

If the Examiner has any questions or desires clarification of any sort, or deems that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Applicant believes no fee is due for the filing of this amendment and response. If this is incorrect, the Commissioner is hereby authorized to charge any fee or credit any overpayment to Deposit Account No. 50-2180.

Respectfully submitted,



Mark D. Perdue, Reg. No. 36,890

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Storm L.L.P.  
Bank of America Plaza  
901 Main Street, Suite 7100  
Dallas, TX 75202  
Telephone: (214) 347-4708  
Fax: (214) 347-4799  
ATTORNEY FOR APPLICANT